Supreme Court, U. S.
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In the Supreme Court of the United States

OCTOBER TERM, 1977
NO. 77-68

PARKING REALTY CO., AND EAN ERIE, FORMERLY HOPE VAN RIPER,

Petitioners,

vs.

HOWARD SHERLINE,

Respondent.

Petition for Writ of Certiorari to the Supreme Court of Michigan.

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3. No basis in law or fact exists to justify the Michigan Courts to continue unconstitutionally refusing a corporation access to their courts in the absence of a licensed attorney.

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IN THE
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PARKING REALTY CO., AND EAN ERIE, FORMERLY HOPE VAN RIPER,

Petitioners,

vs.

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Respondent.

Petition for Writ of Certiorari to the Supreme Court of Michigan.

To the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Petitioners pray that a Writ of Certiorari issue to review the order and judgment of the Supreme Court of Michigan rendered in these proceedings on April 13, 1977.

Opinion Below

There was no formal opinion of the Supreme Court of Michigan denying leave for petitioner to appeal the trial judge's dismissal of petitioners' motion to disqualify the trial judge, said dismissal being on the ground solely that the motion was not presented by an attorney-at-law duly licensed to practice by the State of Michigan.

Jurisdication

The order or judgment of the Supreme Court of Michigan was entered on April 13, 1977. See Appendix A, to this petition. The order of judgment of the Court of Appeals for the State of Michigan was entered on April 19, 1977. See Appendix B. This Petition for Certiorari was filed less than 90 days from April 19, 1977. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1257 (3).

Questions Presented

One Howard Sherline brought suit against petitioner Parking Realty Co. and four other corporations, as well as two individuals, Ean Erie and Dorothy Turkel, in the Wayne County Circuit Court, Detroit, Michigan. In the course of the proceedings of this lawsuit, Ean Erie, an employee of Parking Realty Co., brought a motion on behalf of the corporation to disqualify a judge of the Wayne County Circuit Court, which motion was dismissed for the sole reason that Ean Erie was not a member of the State Bar of Michigan. Emergency leave to appeal the dismissal filed by Ean Erie and by Parking Realty Co., petitioners herein, was denied by the Court of Appeals of the State of Michigan on April 19, 1977, and the Supreme Court of Michigan on April 13, 1977.

The questions thus arising are:

1. Whether the action of the Michigan Courts in refusing to permit Ean Erie as an employee and managing agent to represent Parking Realty Co. in the Michigan Courts violates the Equal Protection Clause of the Fourteenth Amendment.

2. Whether the action of the Michigan Courts in refusing to permit Ean Erie as an employee and managing agent to represent Parking Realty Co. in the Michigan Courts violates the Due Process Clause of the Fourteenth Amendment.

Constitutional Provisions Involved

Constitution of the United States, Fourteenth Amendment, Section 1:

> ". . . Nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Statement of the Case

This case originated upon the filing of a complaint by one Howard Sherline, a minority stockholder of five defendant corporations, including petitioner, Parking Realty Co., alleging various acts of mismanagement of said corporations by individual defendants Ean Erie and Dorothy Turkel. Petitioner Ean Erie is an employee and managing agent of

petitioner Parking Realty Co. and of the other four defendant corporations, and was a Director and Officer of Petitioner Parking Realty Co. as well as three of the other corporations. Dorothy Turkel is a majority stockholder of petitioner and of the other four defendant corporations. Ean Erie is familiar with the activities of petitioner and the other four defendant corporations.

In the course of the lawsuit, Ean Erie on behalf of petioner and the other four corporations, brought a motion to disqualify the trail judge assigned to the case pursuant to Michigan procedure. Under Michigan law, the motion to disqualify a trial judge is heard by another judge of the same court.

On February 4, and on February 15, 1977, Judge Roman S. Gribbs heard petitioner's motion to disqualify the trial judge, Judge Wise, and dismissed the motion for the sole reason that it was brought by petitioner, Ean Erie, who was not a member of the Michigan State Bar and ruled that a corporation can only be represented by a duly licensed attorney. Judge Gribbs told petitioner Ean Erie that "...you may not speak on behalf of other legal entities or other legal persons unless you are qualified to do so and that means that you a licensed attorney. Therefore, I have ruled and I state again that you may appear on the 15th on your own behalf, but your arguments on behalf of the other defendants will not be considered and will not be heard because you cannot represent them." (Transcript page 33 of Hearing, February 3, and February 15, 1977.)

Pursuant to Michigan Laws, petitioners filed on application for emergency appeal to the Court of Appeals of the State of Michigan, which was denied on April 19, 1977, without opinion. Petitioners also made application for emergency appeal to the Supreme Court of Michigan, which application was denied by that Court without opinion on April 13, 1977. A copy of the order of the Supreme Court of Michigan appears as Appendix A herein, and a copy of the order of the Michigan Court of Appeals appears in Appendix B herein.

In petitioners' application for emergency appeal to the

Supreme Court of Michigan and to the Court of Appeals of Michigan, petitioners relied upon their rights under the Fourteenth Amendment of the Constitution of the United States.

Petitioners now have no remedy to permit petitioner Parking Realty Co. to have access to the Michigan Courts without an attorney licensed by the State of Michigan.

REASONS FOR GRANTING THE WRIT

1. *The refusal of the Michigan Courts to permit a corporation to represent itself in litigation is discrimination in judicial procedure which constitutes a denial of equal protection of the laws under the Fourteenth Amendment.*

A private corporation is a person within the meaning of the Fourteenth Amendment forbidding any state to deny to any person within its jurisdiction the equal protection of the laws.

Louis K. Liggett Co. v. Lee (1933) 288 U.S. 517, 53 S.CT. 481, 77 L. Ed. 926.

In the case at bar, the Michigan Supreme Court has refused to review the decision of the Wayne County Circuit Court denying petitioner Parking Realty Co. the right to represent itself in litigation pending therein by its employee and managing agent, Ean Erie. Yet the same courts permit an individual to represent himself or herself in court, or a partnership.

Also, the Michigan Courts permit an employee of a corporation to represent it in Small Claims Court. See MCLA Sec. 600.8408.

Thus, the Michigan Courts impose a highly burdensome requirement on a corporation litigant which is not imposed on an individual litigant, which requirement is imposed merely because the former is a corporation. Just like an individual litigant, a corporation may wish to avoid the expense of hiring an attorney-at-law, licensed as such, by the State of Michigan or may feel that it can equally well, if not better, represent itself in the particular litigation involved. There is

no reason or justification for such discrimination, which is essentially arbitrary.

This Court has held in the analogous case of *Kentucky Finance Corporation v. Paramount Auto Exchange Corporation* (1923) 262 U.S. 544, 43 S.CT.636, 67 L. Ed. 1112, that a state denies equal protection of its laws by requiring a corporation litigant but not an individual litigant, to produce its records in any county of the state. Such a state law constitutes judicial discrimination and is invalid under the Fourteenth Amendment.

Other decisions of this Court are to the same effect, such as, (*Truax v. Corrigan* (1921) 257 U.S. 312, 333, 42 S.CT. 124, 66 L. Ed. 254, (*Power Mfg. Co. v. Saunders* (1927) 274 U.S. 490, 47 S. CT. 678, 71 L. Ed. 1165, and *Smyth v. Ames* (1898) 169 U.S. 466, 522, 18 S. CT. 418, 42 L. Ed. 81.

The federal question presented in this petition is of crucial and critical importance to all corporations and should be resolved by this Court.

The making of such a distinction in representation between the Small Claims Court and the Circuit Court in Michigan with respect to a corporation violates the Equal Protection Clause of the Fourteenth Amendment as being arbitrary and unreasonable discrimination.

Individual litigants, both in civil and criminal cases of substantial complexity, are permitted to represent themselves without a licensed attorney. No reason exists to prevent a corporation to represent itself in civil cases whether in Small Claims Court or in courts of general jurisdiction.

Further, in the case of State Bar of Michigan v. Virginia Cramer (1976) 399 Mich. 116, the Michigan Courts allowed a partnership to represent itself in court without a licensed attorney. In California, any named partner in a partnership may represent the partnership in court without an attorney.

Since the several states generally require an attorney to represent a corporation, and not other business entities, such as partnerships, unincorporated associations, joint ventures,

and the like, no justification exists for the arbitrary discrimination against corporations with respect to self-representation. The alleged excuse by many states that persons of immoral character or disbarred attorneys might otherwise represent a corporation, is of no consequence and fallacious because such individuals may also be in business entities other than corporations and still be allowed to represent such entities in court. For the foregoing reasons, this Court should grant the within petition for Certiorari on the grounds of a denial of equal protection of the laws under the Fourteenth Amendment.

2. *The Continued Refusal of the Michigan Courts to Permit Petitioner Parking Realty Corporation Access to Its Courts in the Absence of Counsel is a Denial of Due Process of Law under the Fourteenth Amendment.*

A private corporation is a person within the meaning of the Fourteenth Amendment forbidding any state to deprive any person of life, liberty, or property without due process of law.

Pembina, etc., Co. v. Pennsylvania (1888) 125 U.S. 181, 8 S.CT. 734, 31 L. Ed. 650.

State action prohibited by the Fourteenth Amendment includes judicial action by the state, as held by this Court in *New York Times Co. v. Sullivan* (1964) 376 U.S. 254, 84 S.CT. 710, 11 L. Ed. 2d 686, stating the test of state action "... The test is not the form in which state power has been applied but, whatever the form, whether such power has in fact been exercised." This Court held that it was immaterial that the law in question was applied to a civil action and that it was common law supplemented by a statute.

Denial of access to its courts by a state has been held by this Court to be a denial of due process under the Fourteenth Amendment in *Boddie v. Connecticut* (1971) 401 U.S. 371, 91 S.Ct. 780, 28 L. Ed.2d 113, stating that a "... state may not, consistent with the obligations imposed on it by the Due Process Clause of the Fourteenth Amendment, preempt the right to dissolve this legal relationship without affording all citizens access to the means it has prescribed for doing so."

Although the *Boddie* case involved the right of an indigent plaintiff to litigate a divorce action without payment of fees and costs, the principle involved is directly applicable to the case at bar, which concerns the right of a corporate defendant in a civil case to appear in court without counsel.

Other instances of state action denying access by litigants to its courts, and thereby violating the due process clause of the Fourteenth Amendment, include *Smith v. Bennett* (1960) 365 U.S. 708, 81 S.Ct. 895, 6 L. Ed. 39, and *Procunier v. Martinez* (1974) 416 U.S. 396, 94 S.Ct. 1800, 40 L. Ed.2d 224.

In *Smith*, this Court held that a state law requiring payment of a filing fee before an indigent prisoner could file a petition for habeas corpus, deprived the prisoner of access to the state's courts and was unconstitutional under the due process clause of the Fourteenth Amendment. In *Procunier*, this Court held that California prison regulations, banning nonmembers of the bar from conducting interviews of prisoners on behalf of attorneys, were improper limitations on the prisoners' access to the courts and legal system of California, and thus unconstitutional under the due process clause of the Fourteenth Amendment.

Thus, the action of the Michigan courts in preventing petitioner Parking Realty Company from being represented by petitioner Erie in the Wayne County Circuit Court, and in requiring petitioner Parking Realty Company to be represented by a licensed attorney at law, has the effect of an improper limitation on petitioner Parking Realty Company's access to the Michigan courts and legal system. Without a licensed attorney, petitioner Parking Realty Company is

unable to appear or defend itself in the pending litigation in the Wayne County Circuit Court, and has been effectively denied access to the Michigan courts and legal system.

Such action by the Michigan courts is a clear violation of the due process clause of the Fourteenth Amendment and merits the intervention of this Court by granting the within Petition for Writ of Certiorari.

3. *No basis in law or fact exists to justify the Michigan Courts to continue unconstitutionally refusing a corporation access to their courts in the absence of a licensed attorney.*

The several states of the United States, including Michigan, have generally forbidden a corporation to appear in their courts and litigate without being represented by an attorney-at-law licensed as such by the state. See annotation at 19 A.L.R. 3d 1073.

The alleged reason usually given for the requirement of counsel is adherence to the common law rule that a corporation was considered incapable of appearing personally in any action. See 1 COKE LITT. First Amer. Edit. Sections 90, 66 (b).

Yet, many of the several states in the United States permit a corporation to be represented by a corporate officer or director, not an attorney, in Small Claims Court or in courts not of record. See annotation at 19 A.L.R. 3d 1073. Some states permit a corporation to appear through a director, officer, or an employee, whether or not an attorney-at-law, in certain courts or under certain conditions. For example, the State of California has recently provided, in 1976, in Section 87 of the California Code of Civil Procedure as follows:

> "Where a corporation is a party in the municipal or justice court it may appear through a director, officer, or an employee, whether or not such person is an attorney-at-law."

Under California Law, the Municipal Court is a court of general jurisdiction and is a Court of Record. See California Constitution, Article VI, Section 1, *Schwartz v. Burnett*

Pharmacy (1931) 112 Cal. App. Supp. 781, 789 (295 P. 508).

Even the State of Michigan permits a corporate stockholder or his assignee, purchaser, heir, devisee, administrator, or executor, of a corporation whose charter has expired, or any creditor or creditors, to appear and defend in the name of the corporation in a lawsuit against the expired corporation. See Michigan General Court Rules, Rule 779.5.

In the case of *Willheim v. Murchison* (1962) 206 F. Supp. 733 (SD NY), the District Court had permitted the stockholders of a corporation to bring a derivation action on behalf of the corporation and also act in propria persona without an attorney in legal proceedings therein. The court further held that the individual stockholder could present arguments common to other plaintiffs to the case as well as himself.

A similar situation is present here in the case at bar, since petitioner Ean Erie is presenting arguments common to her co-defendant, petitioner Parking Realty Co., a Michigan corporation.

There is no good reason in law or fact why petitioner Parking Realty Co. should not be permitted to have petitioner Ean Erie represent it in the pending litigation in the Wayne County Circuit Court. There are numerous instances, contained in the annotation at 19 A.L.R. 3d 1073, where corporations have been persmitted to have agents represent them who are not attorneys, in court.

The continued refusal of the Michigan Courts to permit petitioner Ean Erie to represent petitioner Parking Realty Co. is not only a violation of due process and equal protection under the Fourteenth Amendment, but is also contrary to the growing trend of the several states of the United States to permit, more and more, corporations to be represented in court without a licensed attorney.

For example, in *Sellent-Repent Corporation v. Queens Borough Gas and Electric Co.* (1936) 290 NYS 887, 160 Misc. 920, the Court allowed a corporation to sue without the appearance of a licensed attorney on the grounds that a corporation was entitled to sue as a natural person.

In *A. Victor & Co. v. Sleininger* (1939) 9 NYS 2d 323, 255 App. Div. 673, the Court held that a corporation had power to sue or defend on its own behalf without an attorney. The case of *Milmore v. Meyer* (1939) 15 NYS 2d 899, allowed a corporation to sue in a justice court without an attorney.

In *Swartzwelder v. Freeport Coal Co.* (1948) 131 W. Va. 276, 46 SE 2d 813, the Court permitted the president of the defendant corporation to appear in court without an attorney for pleading purposes.

In Michigan, the opinions of the Michigan Attorney General (1928-30) have held that one is not required to be a licensed attorney to represent a party in justice court and that the justice court has no power to adopt a rule forbidding a non-attorney to appear on behalf of a litigant.

In 1968, the Georgia legislature enacted a new Georgia Business Corporations Code, which permits a corporation in Title 22, Section 22-202 (3)(iii) "To sue and be sued, complain and defend in all courts, and to participate in any judicial, administrative, arbitrative or other action or proceeding."

This statute was followed by the Georgia Courts in *Knickerbocher Tax Systems, Inc. v. Texaco, Inc.* (1974) 130 Ga. App. 383, 203 SE 2d 290, allowing a corporation to represent itself in court without a licensed attorney.

In *Phoenix Mut. Life Ins. Co. v. Radcliffe on the Delaware, Inc.* (1970) 439 Pa. 169, 266 A. 2d 698, the Court allowed an officer of the defendant corporation to represent it at trial, though not an attorney, in the absence of any objection and where the officer had authority to act.

In support of its holding, the Pennsylvania Court stated the following at pg. 166 of 439 Pa.:

> "As explained by Chief Justice MARSHALL in the opinion of *Osborn v. President, etc., United States* Bank, 9 Wheat. 738, 22 U.S. 738, 6 L. Ed. 204 (1824), as quoted in the Third Circuit case of *Simbraw, Inc. v. United States,* 367 F. 2d 373 (1966):
>
> 'Natural persons may appear in court, either by themselves, or by their attorney. But no man has a right to

appear as the attorney of another, without the authority of that other. In ordinary cases, the authority must be produced, because there is, in the nature of things, *prima facie* evidence that one man is in fact the attorney of another. The case of an attorney-at-law, an attorney for the purpose of representing another in court, and prosecuting or defending a suit in his name, is somewhat different. The power must indeed exist, but its production has not been considered as indispensable. Certain gentlemen, first licensed by government, are admitted, by order of a court, to stand at the bar, with a general capacity to represent all the suitors in the court. The appearance of any one of these gentlemen in a cause, has always been received as evidence of his authority? and no additional evidence, so far as we are informed, has ever been required. This practice, we believe, has existed from the first establishment of our courts, and no departure from it has been made in those of any state, or of the Union."

Since authority existed for the officer to represent the corporation, the Pennsylvania Court held that such representation was proper without an attorney.

The same situation exists in the case at bar. No question has been raised as to the authority of petitioner, Ean Erie, to represent petitioner Parking Realty Co. so far as the corporation is concerned. The Michigan Courts have shown no reason in law or fact to hold otherwise, or to forbid petitioner, Ean Erie, from representing petitioner Parking Realty Co.

Although in *Detroit Bar Assoc. v. The Union Guardian Trust Co.* (1938) 282 Mich. 707, 711, the Michigan Supreme Court held that a corporation could appear only by attorney, the Court had no statutory authority or other Michigan authority to support its ruling, but relied solely on two out-of-state cases, one in Colorado and the other in New Jersey.

Moreover, in the case of a dissolved corporation, the State of Michigan allows an individual to appear in the name of the corporation. See Michigan Court Rule No. 779.5.

For the foregoing reasons, no justification exists in law or fact to permit the Michigan Courts to continue to so discriminate against a corporation which constitutes a violation of the due process clause of the Fourteenth Amendment.

CONCLUSION

The requirement by the Michigan Courts that petitioner Parking Realty Co. must have a licensed attorney represent it in the pending litigation in the Wayne County Circuit Court is a violation of the equal protection of the laws as guaranteed under the Fourteenth Amendment. The same action of the Michigan Courts is also a violation of the due process clause of the Fourteenth Amendment. This action by the Michigan Courts has no justification in law and fact and is of crucial and critical importance to corporations throughout the United States.

In view of the substantial nature of these federal questions, this Court should exercise its discretion and grant the Writ of Certiorari sought by this petition herein.

Respectfully submitted,

JOHN JOSEPH HALL
Attorney for Petitioners

APPENDIX A

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN, Held at the Supreme Court Room, in the City of Lansing, on the 13th day of April in the year of our Lord one thousand nine hundred and seventy-seven.

Present the Honorable
THOMAS GILES KAVANAGH,
Chief Justice.

G. MENNEN WILLIAMS,
CHARLES L. LEVIN,
MARY S. COLEMAN,
JOHN W. FITZGERALD,
JAMES L. RYAN,
BLAIR MOODY, JR.,
Associate Justices

CR 19-420
CR 19-421
CR 19-422

PARKING REALTY COMPANY, et al.,

Plaintiffs-Appellants,

v 59550-59552 COA: 77-437
LC: 75-071-519-CK

WAYNE COUNTY CIRCUIT COURT JUDGE,

Defendant-Appellee.

On order of the Court, the applications for emergency appeal or, in the alternative, claims for superintending control, are considered, and the same are hereby DENIED, because plaintiffs-appellants have failed to persuade the Court that the questions presented should now be reviewed by the Court or that appellants will suffer substantial harm by awaiting final judgment or determination before taking an appeal.

STATE OF MICHIGAN — ss.

I, Harold Hrag, Clerk of the Supreme Court of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court at Lansing, this 13th day of April in the year of our Lord one thousand nine hundred and seventy-seven.

Clerk.

APPENDIX B

In these causes applications for leave to appeal and motions for immediate consideration are filed by defendants-appellants, and an answer in opposition thereto having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the motions for immediate consideration be, and the same are hereby GRANTED.

IT IS FURTHER ORDERED that the applications be, and the same are hereby DENIED for failure to persuade the Court of the need for immediate appellate review, and for the further reason that the applications and briefs in support thereof are grossly lacking in compliance with GCR 1963, 806.1 and 813.

Judge Gillis not participating.

STATE OF MICHIGAN) ss

I, Ronald L. Dzierbicki, Clerk of the Court of Appeals of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause, that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court of Appeals at Lansing, this 19th day of April in the year of our Lord one thousand nine hundred and seventy-seven.

Clerk

Supreme Court, U. S.
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IN THE

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October Term 1977

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PARKING REALTY CO. AND EAN ERIE,
FORMERLY HOPE VAN RIPER,
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v
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ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF MICHIGAN

BRIEF OF PLAINTIFF-RESPONDENT

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Argument

1. The substantive issue upon which petitioners seek this Court's review was neither presented to nor decided by the courts of Michigan; hence, this Court's consideration of that issue as raised in the instant Petition would be inappropriate 6

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IN THE

Supreme Court of the United States

October Term 1977

No. .....

PARKING REALTY CO. AND EAN ERIE,
FORMERLY HOPE VAN RIPER,
Petitioners,
v
HOWARD SHERLINE,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF MICHIGAN

BRIEF OF PLAINTIFF-RESPONDENT

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States.

Respondent, Howard Sherline, respectfully files the following brief in opposition to the Petition for Writ of Certiorari to the Supreme Court of Michigan filed by petitioners.

OPINION BELOW

As indicated in the Petition for Writ of Certiorari to the Supreme Court of Michigan (herein "the Petition"), no formal opinion was issued by the Michigan Supreme Court.

That court's Memorandum Order (attached to the Petition as Appendix A) explicitly states, however, that its consideration of the matter at hand was confined to a holding that ". . . plaintiffs-appellants have failed to persuade the Court that the questions presented should now be reviewed by the Court or that appellants will suffer substantial harm by awaiting final judgment or determination before taking an appeal." This Memorandum Order discloses no consideration by the Michigan Supreme Court of the substantive issue sought to be presented to this Court in the Petition.

JURISDICTION

The respondent accepts the statement of this Court's jurisdiction contained in the Petition. Pursuant to Supreme Court Rule 40(3), respondent makes no counter-statement thereof.

CONSTITUTIONAL PROVISIONS INVOLVED

Without conceding that the Petition properly raises an issue of constitutional dimension, respondent makes no counter-statement of the constitutional provisions cited therein.

COUNTER-STATEMENT OF QUESTIONS PRESENTED FOR REVIEW

1. Ought this Court to entertain the substantive issue raised in the Petition when the Supreme Court of Michigan has not considered that issue and this Court has previously denied an application by petitioners to seek its review?

2. Inasmuch as this Court has repeatedly recognized the right of a state to regulate the practice of law, does a state

prohibition against non-lawyers representing persons and entities other than themselves in its circuit courts present a substantial federal question?

3. Does a state's regulation of the practice of law, which reserves the privilege to practice law to natural persons and denies that privilege to fictional persons such as corporations, create a substantial federal question concerning the classification of persons under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution?

COUNTER-STATEMENT OF THE CASE

Respondent Howard Sherline, individually and as trustee, is a minority shareholder in five corporations. He is a director and officer of each of those corporations. Dorothy Turkel is the majority shareholder in, and a director and officer of, each of those corporations. Petitioner Erie is her daughter, and is neither a shareholder, director or officer in any of those corporations. Respondent initiated this action below, alleging gross corporate mismanagement, and joined as defendants therein Ms. Turkel, Ms. Erie and the five corporations.

Ms. Turkel is an attorney licensed to practice in the State of Michigan; Ms. Erie is not. During the course of the proceedings in the trial court, the individual and corporate defendants have been represented, in succession, by three attorneys licensed to practice in the State of Michigan. Ms. Turkel has not been active, as an attorney, in the representation of the defendants.

In August, 1976, Paul J. G. Gravel, Esq., the second of defendants' three attorneys, filed a motion to disqualify the Honorable John M. Wise, the trial judge assigned to

hear this cause. The motion was first heard by Judge Wise, as provided by local court rule, and was denied. An interlocutory appeal from this ruling was sought by Mr. Gravel and dismissed by the Michigan Court of Appeals on the ground that Michigan General Court Rule 405.1 required that the matter first be considered by another judge of the same trial bench. Mr. Gravel was thereupon discharged as counsel to the defendants.

The defendants then retained Frederick B. Bellamy, Esq., who refiled the motion for disqualification in November, 1976. Pursuant to local court rule, this motion was assigned to the Honorable Roman S. Gribbs. In January, 1977, petitioner Erie filed a supplemental motion for disqualification which was also assigned to Judge Gribbs. Both motions were assigned for hearing on February 4, 1977. At that hearing, petitioner Erie discharged Mr. Bellamy as counsel and announced her intention to proceed on the motion for disqualification on behalf of herself, her mother and the five defendant corporations. Judge Gribbs indicated to petitioner Erie that he would entertain the motion as one made on her own behalf, but that, as a non-lawyer, she could not represent her mother or the five corporations. Judge Gribbs adjourned the hearing until February 15, 1977 to permit him an opportunity to review the hundreds of pages of material filed by Ms. Erie.

In the interim between February 4, 1977 and February 15, 1977, petitioner Erie sought emergency review by the Michigan Court of Appeals of Judge Gribbs' comments concerning her right to represent persons other than herself. That court denied her application by its Order dated February 15, 1977.

At the resumed hearing before Judge Gribbs on February 15, 1977, argument was offered on the motion for disqualification and Judge Gribbs gave his oral ruling thereon, denying the motion. A formal order denying the motion was entered by Judge Gribbs on March 4, 1977. A copy of that Order is annexed hereto as Appendix A.

Petitioners' account of these proceedings before Judge Gribbs, as set forth in their Petition, is erroneous in two respects. First, Judge Gribbs did not dismiss petitioner Erie's motion for disqualification "... on the ground solely that the motion was not presented by an attorney-at-law duly licensed to practice by the State of Michigan." (Petition at 1). To the contrary, Appendix A annexed hereto clearly discloses that Judge Gribbs considered the motion on its merits, as one filed by a party acting *in propria persona,* and denied it. Second, petitioners contend throughout their argument that Judge Gribbs held that corporations may not have access to Michigan courts without a licensed attorney. Again, this is factually inaccurate. Judge Gribbs' oral comments, excerpts from which appear on page 3 of the Petition, were confined to the question of whether Ms. Erie could provide legal representation to persons other than herself.

Subsequent to the hearings described above, petitioner Erie sought simultaneous review, on an emergency basis, in the Michigan Court of Appeals and Michigan Supreme Court. The applications filed by her consisted of a jumbled collage of hundreds of pages of corporate minutes, reprints of law review articles, lists of alleged CIA agents, Freudian analyses of Judge Wise's alleged psychiatric problems and quotations from treatises on satanism and witchcraft. Both appellate courts dismissed Ms. Erie's applications. The orders of dismissal are annexed to the Petition as Appendices A and B.

On or about April 8, 1977, petitioner Erie filed an "Application for Emergency Appeal or, In the Alternative, Claim for Superintending Control" with this Court. That application, like the instant Petition, sought this Court's review of petitioner Erie's claim of the right to represent the other defendants in this cause. By letter dated April 25, 1977, Ms. Erie's application was returned, with the notation "Application denied April 23, 1977 Potter Stewart." A copy of the letter of notification is annexed hereto as Appendix B.

This matter remains pending in the Circuit Court for the County of Wayne, Michigan and is awaiting trial.

ARGUMENT

1. The substantive issue upon which petitioners seek this Court's review was neither presented to nor decided by the Courts of Michigan; hence, this Court's consideration of that issue as raised in the instant Petition would be inappropriate.

This Court has long recognized and consistently declared that, in reviewing the judgments and opinions issued by the courts of the several states, this Court's consideration should be reserved for those Constitutional issues fairly presented to, and squarely decided by, the courts of last resort of those states. *Black* v *Cutter Laboratories,* 351 U.S. 292, 76 S.Ct. 824, 100 L. Ed. 1188 (1956); *Durley* v *Mayo,* 351 U.S. 277, 76 S.Ct. 806, 100 L. Ed. 1178 (1956); *Buck* v *California,* 343 U.S. 99, 72 S.Ct. 502, 96 L. Ed. 775 (1952); *Wilson* v *Cook,* 327 U.S. 474, S.Ct. 663, 90 L. Ed. 66 (1952). This doctrine is rooted both in the basic concept of federalism upon which our system of jurisprudence is based and in the elementary notion that a court's decisions

should not be evaluated as to issues not fairly presented for its consideration in the first instance.

In the case at bar, petitioners seek this Court's condemnation of "[t]he refusal of the Michigan Courts to permit a corporation to represent itself in litigation . . ." In respondent's view, this phrasing of the issue wholly mischaracterizes the matters presented to and decided by the Michigan courts in this cause and substantially exceeds the proper bounds of aggressive advocacy.

The comments of the trial judge concerning Ms. Erie's attempts to represent persons other than herself are fairly presented in the excerpts from his remarks quoted on page 3 of the Petition. Plainly stated, Judge Gribbs ruled only the Ms. Erie could not represent, as counsel, her mother and five corporations of which she is neither a shareholder, officer nor director.[1] It is worthy of mention that this ruling was delivered from the bench as an observation in the course of argument on the defendants' motion for disqualification of the trial judge. No order concerning this issue was ever requested by petitioners or entered by the court.

It ought further to be noted that, contrary to the assertion in the Petition, Judge Gribbs did not dismiss petitioner Erie's motion for disqualification because she is a non-lawyer. Indeed, the trial court's comments to Ms. Erie set forth in the Petition include the court's statement that ". . . you may appear on the 15th on your own behalf . . ." for the purpose of pursuing the motion for disqualification. Judge Gribbs' Order clearly states that petitioner Erie's motion was considered and denied.

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[1] The Petition includes the statement (at page 4) that Ms. Erie is "managing agent" of Petitioner Parking Realty Co. and the other four defendant corporations. No mention of this term, nor any facts which would support its use, appears in the record below.

In this posture, this matter was brought simultaneously to the Michigan Court of Appeals and Michigan Supreme Court on pleadings authored by petitioner Erie and variously entitled Application for Emergency Appeal, or in the Alternative, Claim for Superintending Control and Cross-Application for Emergency Appeal or, in the Alternative, Claim for Superintending Control. As noted above, these pleadings were exceedingly voluminous, contained reams of extraneous materials dealing with random issues, and requested extraordinary relief on an interlocutory basis.

Michigan General Court Rules 806.3 and 852.1 set forth the standards which must be met by an applicant seeking interlocutory review by the Michigan Court of Appeals and Michigan Supreme Court respectively. In general, these provisions require a showing of one or more of the following factors: 1) involvement of a controlling question of law or an issue of major significance to the jurisprudence of the state, 2) clear error in the decision below, 3) involvement of a challenge to the validity of a legislative act or an issue of substantial public interest, and 4) likelihood of substantial harm if an adjudication is delayed. The power of superintending control over inferior courts in granted to Michigan appellate courts in Michigan General Court Rule 711. The authorities uniformly indicate that this power is discretionary, that its office is to control inferior courts from exceeding their jurisdiction and that it should not be utilized where adequate alternative remedies are available. *Genesee Prosecutor* v *Circuit Judge,* 386 Mich. 672, 194 N.W.2d 693 (1972); *Quigley* v *Township of Dexter,* 43 Mich. App. 654, 204 N.W. 2d 257 (1972); *Bennett* v *School Dist of City of Royal Oak,* 10 Mich. App. 265, 159 N.W.2d 245 (1968). It is against the background

of the foregoing facts and the above-described rules of procedure applicable to their consideration of cases, that the orders of the Michigan appellate courts must be evaluated.

The order of the Michigan Court of Appeals (Appendix B to the Petition) dismissed Ms. Erie's various applications on two bases: 1) that petitioner Erie had failed ". . . to persuade the Court of the need for immediate appellate review . . .," and 2) that the applications and briefs filed by her were ". . . grossly lacking in compliance with . . ." applicable procedural rules. Discussion of the first of these grounds may be deferred and considered in connection with the similar ruling of the Michigan Supreme Court. As to the latter ground, while no mention thereof is made in the Petition, undersigned counsel assures the Court that the procedural irregularities in Ms. Erie's pleadings were both substantial and fundamental. Clearly no federal question of substance is presented by this latter holding. *Herb* v *Pitcarin,* 324 U.S. 117, 65 S.Ct. 59, 89 L.Ed. 789 (1944).

The order of the Michigan Supreme Court (Appendix A to the Petition) also reflects two grounds upon which Ms. Erie's applications were dismissed, namely: 1) that she had ". . . failed to persuade the Court that the questions presented should now be reviewed by the Court . . .," and 2) there had been no showing that the defendant-appellants ". . . will suffer substantial harm by awaiting final judgment or determination before taking an appeal." As to the first of these grounds (and the similar ruling by the Michigan Court of Appeal), it is patent that the court's ruling evidences merely the conclusion that the facts presented did not merit the exercise of its conceded discretion to grant or withhold extraordinary relief on an emergency basis in

an interlocutory matter. As to the latter ground, the court's opinion simply reflects its failure to perceive imminent and substantial harm to the defendant-appellants. It may be inferred that this conclusion is grounded in the fact that Judge Gribbs did accord Ms. Erie a full and complete opportunity to present her motion on her own behalf, and that little prejudice could result from her inability to present the same motion on behalf of parties other than herself.

In effect, the instant Petition requests this Court to issue an advisory opinion to the Michigan appellate courts directing them as to how and when to exercise their discretion in considering emergency appeals in interlocutory matters. Petitioners' claim that this case presents the abstract issue of "corporate self-representation" is plainly belied by the record. By their orders, the Michigan appellate courts plainly indicate that their consideration of this matter was confined, and properly confined, to a determination of whether the facts here presented warranted the exercise of their discretion in granting extraordinary interlocutory relief. That exercise of discretion, we submit, is not properly reviewable by this Court on a Petition for Writ of Certiorari. Moreover, Mr. Justice Stewart's denial of petitioner Erie's previous application to this Court for review of the issue raised in her current Petition provides additional support for the conclusion that the Petition now before the Court ought to be dismissed.

Finally, given the voluminous, rambling, and obfuscatory nature of petitioner Erie's pleadings in the Michigan appellate courts, all of which pervades and clouds the record, this Court, in its discretion, should deny the Petition. *Rescue Army* v *Municipal Court of Los Angeles,* 331 U.S.

549, 67 S. Ct. 1409, 91 L. Ed. 1966 (1947); *International Board of Teamsters* v *Denver Milk Producers, Inc.,* 334 U.S. 809, 68 S. Ct. 1015, 92 L. Ed. 1741 (1948); *DeBacker* v *Brainard,* 396 U.S. 28, 29-30, 90 S. Ct. 163, 24 L. Ed. 2d 148 (1969); *Simmons* v *West Haven Housing Authority,* 399 U.S. 510, 90 S. Ct. 1960, 26 L. Ed. 2d 764 (1970).

2. The claim of petitioner Erie of a right to represent, as counsel, persons other than herself fails to raise a federal question of substance.

Rule 19.1 of the United States Supreme Court Rules provides:

> "A review on Writ of Certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are *special and important reasons* therefor." (Emphasis supplied).

Subsection (a) of Rule 19 indicates the character of reasons which will be considered by the Court in exercising such discretion:

> "Where a state court has decided a federal question of substance not theretofore determined by this Court, or has decided it in a way probably not in accord with applicable decisions of this Court."

In analyzing what consitutes a "substantial" federal question for purpose of Supreme Court review, this Court has repeatedly held that a question is not substantial where previous decisions of the Court are uniform and consistent in resolving it. *California Water Service Co.* v *City of Redding,* 304 US. 252, 58 S. Ct. 865, 82 L. Ed. 1323 (1937); *Zucht* v *King,* 260 U.S. 174, 43 S. Ct. 24, 67 L. Ed. 194 (1922); *Minneapolis, St. Paul and Sault Ste. Marie Railway Co.* v *C. L. Merit Co.,* 254 U.S. 376, 41 S. Ct. 142, 67 L. Ed. 312 (1920); *Leonard* v *Vicksburg, Shreveport, and Pacific*

Railroad Co., 198 U.S. 416, 25 S. Ct. 758, 49 L. Ed. 1108 (1904). The question which petitioners seek to foist upon this Court is precisely of this character. Properly framed, ". . . its unsoundness so clearly results from the previous decisions of this Court as to foreclose the subject." *California Water Service Co., supra,* at 255.

This Court has long recognized:

> ". . . that the states have a compelling interest in the practice of professions within their boundaries, . . . they have broad powers to establish standards for licensing practitioners and regulating the practice of professions. . . . The interests of the states in regulating lawyers is especially great since lawyers are essential to the primary governmental function of administering justice, and have historically been 'officers of the court.' "

Goldfarb v *Virginia State Bar,* 421 U.S. 773, 792, 95 S. Ct. 2004, 44 L.Ed. 2d 572, 588 (1975); *Sperry* v *Florida ex rel., Florida Bar,* 373 U.S. 379, 383, 83 S. Ct. 1322, 10 L. Ed. 2d 428 (1963); *Cohen* v *Hurley,* 366 U.S. 117, 123-124, 81 S. Ct. 954, 6 L. Ed. 2d 156 (1961); *Law Student's Research Council* v *Wadmond,* 401 U.S. 154, 157, 91 S. Ct. 720, 27 L. Ed. 2d 749 (1971). Clearly, the single most important aspect of proper regulation of the practice of law is the power of the state to prohibit unlicensed and unqualified individuals, such as petitioner Erie here, from acting as attorney and counselor to others. Petitioners ignore this Court's emphatic acknowledgment of this fundamental state power and argue, in effect, that the Constitution confers upon Ean Erie an unfettered right to represent others. Claims of such a right have been uniformly rejected by this Court as being utterly without merit.

In *Hacken* v *Arizona,* 389 U.S. 143, 88 S. Ct. 325, 19 L. Ed. 2d 347 (1967), a non-lawyer, having represented an indigent prisoner in an Arizona state court was convicted under an Arizona statute making the unauthorized practice of law a misdemeanor. The Supreme Court of Arizona denied a Petition for Habeas Corpus, affirming the conviction. Appeal was made to this Court and, in a *per curiam* opinion, was dismissed for want of a substantial federal question. In *Martin* v *Walton,* 368 U.S. 25, 82 S. Ct. 1, 7 L. Ed. 2d 5 (1961), a lawyer, admitted to the Bars of Kansas and Missouri, brought an action in mandamus in Kansas to compel a judge of the Kansas probate court to permit him to try cases in the Kansas probate court without the association of Kansas counsel. Kansas statutes and court rules provide that an attorney admitted to the Kansas bar, who is also a member of the Bar of another state and regularly engaged in the practice of law in that state, must associate with local counsel in Kansas before he can appear in Kansas courts. The Supreme Court of Kansas affirmed a lower court's order quashing the Writ in spite of a claim that the Kansas statutes and court rules were in contravention of the Fourteenth Amendment. In a *per curiam* opinion, this Court dismissed the appeal for want of a substantial federal question, holding that the statute and rules at issue were ". . . not beyond the allowable range of state action under the Fourteenth Amendment." *Martin, supra,* at 26.[2]

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[2] In numerous cases prior to *Martin* and *Hacken,* both *supra,* this Court has recognized and upheld the state's power to regulate the privilege to practice law, to ensure that only qualified individuals presume to counsel others as to their legal interests. *Konigsberg* v *State Bar of California,* 353 U.S. 252, 77 S. Ct. 722, 1 L. Ed. 2d 810 (1957); *Dent* v *West Virginia,* 129 U.S. 114, 9 S. Ct. 231, 32 L. Ed. 623 (1889); *Lathrop* v *Donohue,* 367 U.S. 820, 81 S. Ct. 1826, 6 L. Ed. 2d 1191 (1961); *United Mine Workers* v *Illinois State Bar,* 389 U.S. 217, 88 S. Ct. 353, 19 L. Ed. 2d 426 (1967).

A final and fatal blow to the patently frivolous claim of petitioners is provided by *Ferguson* v *Skrupa,* 372 U.S. 726, 83 S. Ct. 1028, 10 L. Ed. 2d 93, 95 ALR 2d 1347 (1963). In *Ferguson,* a Kansas statute restricted the business of "debt adjusting" to licensed attorneys. Plaintiff claimed the statute violated both the Due Process and Equal Protection clauses of the Fourteenth Amendment. This Court was unanimous in rejecting the claim, saying: "If the State of Kansas wants to limit debt adjusting to lawyers, the Equal Protection Clause does not forbid it." *Ferguson, supra,* at 732.

Petitioners ignore all these cases and the fundamental concept they reflect in baldly asserting that Ean Erie has a constitutional right to act as an attorney for others. The decided cases of this Court are uniform and emphatic in rejecting such claims. The Petition fails to raise a substantial federal question and should be rejected.

3. A state's reservation of the privilege to engage in the practice of law to natural persons, and the denial of that privilege to corporations, raises no substantial federal question under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Respondent earnestly submits that the arguments presented in the foregoing sections of this Brief thoroughly dispose of petitioners' contention that this Court should entertain review of the abstract issue of "corporate self-representation" posed in the Petition. It is without trepidation, however, that respondent addresses that issue on the merits.

We begin with the acknowledgement that the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution includes corporations as persons within

its purview and prohibits discrimination among persons by classifications which lack rational basis. This Court has recognized, nonetheless, that distinctions between corporate persons and natural persons, where based on rational distinctions, are constitutionally sound. *Phillips Petroleum Co.* v *Jenkins,* 297 U.S. 629, 56 S. Ct. 611, 80 L. Ed. 943, *reh. denied,* 298 U.S. 691, 56 S. Ct. 745, 80 L. Ed. 1409 (1936); *Crescent Cotton Oil Co.* v *Mississippi,* 257 U.S. 129, 42 S. Ct. 42, 66 L. Ed. 166 (1921); *Ownbey* v *Morgan,* 256 U.S. 94, 41 S. Ct. 433, 65 L. Ed. 837 (1921).

In the matter at hand, the Michigan legislature has reserved the privilege to practice law to those natural persons licensed by it (M.C.L.A. §600.916) and has forbidden corporations from practicing law for others (M.C.L.A. §450.681). The Michigan Supreme Court has concluded that corporations must appear in its circuit courts by a licensed attorney. *Detroit Bar Ass'n* v *Union Guardian Trust Co.,* 282 Mich. 216, 276 N.W. 365, *reh. denied,* 282 Mich. 707, 711, N.W.432 (1938). Respondent suggests that this classification is both rational and necessary. Perforce, a corporation *cannot* practice law; it must, if it is to appear in court, appear through some natural person. It would be equally ludicrous to suggest that a corporation could practice surgery. The Michigan regulation of the practice of law simply requires that all such natural persons who seek to practice law for others than themselves be licensed to do so. The Supreme Court of Michigan has recently noted that the substantial state interests which underlie this regulatory scheme include the protection of the public and the assurance that practitioners of the law are subject to disciplinary procedures. *State Bar of Michigan* v *Cramer,* 399 Mich. 116, 132, 134, ... NW 2d ..... (1976). The legitimacy of these important state interests is beyond dispute.

It is of no moment, we submit, that the Michigan legislature has permitted corporations to appear in its small claims courts without counsel (M.C.L.A. §600.8408), since this very section *prohibits* the participation of attorneys in small claims cases, except on their own behalf. Hence, unless corporations were permitted to appear through non-lawyers, *they could not appear at all.*

We further submit that petitioners' reliance on this Court's opinion in *Kentucky Finance Corp.* v *Paramount Auto Exchange Corp.*, 262 U.S. 544, 43 S. Ct. 636, 67 L. Ed. 112 (1923), is misplaced. There, this Court faced a state statute which placed on corporate litigants a vexatious and irrational burden in connection with the situs of the production of its corporate records. Here, the Michigan regulatory scheme imposes no analogous burden. Rather, it has merely identified the indisputable fact that corporations are inherently incapable of appearing in court except through a natural person and that, in consequence, they must so appear through a natural person licensed and authorized to practice law. This conclusion does not offend the Equal Protection Clause and is in harmony with this Court's decision in *Osborn* v *The Bank of the United States*, 22 U.S. (9 Wheat.) 738, 6 L. Ed. 204 (1824). Petitioners cite no authority to the contrary.

Lastly, petitioners ask this Court to engage in a debate with the State of Michigan as to the wisdom of confining the practice of law to natural persons. In the great tradition of federalism, this Court has declined such invitations. In *Ferguson, supra,* the Court stated:

> "We are not concerned . . . with the wisdom, need, or appropriateness of the legislation. . . . this Court does not sit to subject the State to an intolerable supervision hostile to the basic principles of our

> Government and wholly beyond the protection which the general clause of the Fourteenth Amendment was intended to secure." *Ferguson, supra,* at 730.

Petitioners simply ignore this settled and fundamental principle of federalism and insist "there is no good reason . . . why Parking Realty Co. should not be permitted to have petitioner Ean Erie represent it . . ." (Petition at 9) The State of Michigan, in its wisdom, has decided there are very good reasons to regulate who may appear in its courts as attorneys for others. That wisdom, and the power to effect it, has always been respected by this Court.

CONCLUSION

The issue which the Petition requests this Court to address was never considered by the Michigan appellate courts. Those courts properly confined their attention to an examination of whether the facts presented to them justified the exercise of their discretion in granting emergency interlocutory review of the trial judge's actions in this cause. This Court has never considered the exercise of such discretion properly reviewable.

Respondent further submits that the claim asserted by Ms. Erie that she may represent, as counsel, her mother and five corporations of which she is neither a shareholder, director nor officer is patently frivolous and wholly fails to present a substantial federal question. Finally, we urge that the statutes and appellate decisions under which Michigan has reserved to licensed attorneys the privilege of engaging in the practice of law do not present a colorable claim of improper classification or discrimination against corporations under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. We urge that the Petition be denied.

Respectfully submitted,
Miller, Canfield, Paddock and Stone
Gilbert E. Gove
Carl H. von Ende
R. Richard Livorine
300 Wabeek Building
Birmingham, Michigan 48011
Attorneys for Plaintiff-Respondent

Dated: August 10, 1977

APPENDIX A

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE
COUNTY OF WAYNE

HOWARD SHERLINE, Individually
and as Executor and Trustee,
Plaintiff,
vs. No. 75-071-519-CK
PARKING REALTY COMPANY, et al.
Defendants.
Carl H. von Ende (P-21867)
Attorney for Plaintiff

ORDER DENYING SUPPLEMENTAL MOTION TO DISQUALIFY THE JUDGE

At a session of said Court held in the City of Detroit, County of Wayne, State of Michigan on March 4, 1977.

PRESENT: HONORABLE ROMAN S. GRIBBS, Circuit Court Judge

This matter having come before the Honorable Roman S. Gribbs by designation by Presiding Judge James N. Canham for consideration of the Supplemental Motion to Disqualify the Judge filed by defendant Ean Erie, a/k/a Hope Van Riper, and hearings on said Motion having been conducted on February 4, 1977 and February 15, 1977; and the Court having heard argument from defendants Erie and Turkel and from counsel for the plaintiff; and the Court having fully considered the contents of the aforesaid Supplemental Motion and the Reply and Brief filed in opposition thereto by counsel for the plaintiff; and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the Supplemental Motion to Disqualify the Judge filed in this cause by defendant Ean Erie be, and the same hereby is, denied.

IT IS HEREBY FURTHER ORDERED that the oral motion by plaintiff's counsel for the award of costs and actual attorneys fees in connection with said Supplemental Motion is reserved for consideration by the judge to whom this case is assigned.

/s/ ROMAN S. GRIBBS
Circuit Court Judge

A TRUE COPY
JAMES R. KILLEEN, Clerk
By: /s/ .....
Deputy Clerk

APPENDIX B

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D. C. 20543

April 25, 1977

Ms. Ean Erie
1420 David Whitney Building
Detroit, Michigan 48226

Re: Ean Erie, formerly Hope Van Riper v. Howard Sherline, et al., A-871

Dear Ms. Erie:

Your applications in the above-entitled case have been presented to Mr. Justice Stewart, who has endorsed thereon the following:

"Application denied
April 23, 1977
Potter Stewart"

Please notify opposing counsel of this action.

Very truly yours,
MICHAEL RODAK, JR., Clerk
By: /s/ PETER K. BECK
Assistant Clerk